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## REMARKS

Claims 1 to 86 were pending in the application at the time of examination. Claims 1 to 4, 10 to 13, 19 to 22, 28, and 30 to 32 remain rejected for obviousness type double patenting. Claims 1, 10, 19 and 28 remain rejected as anticipated. Claims 2 to 9, 11 to 18, 20 to 27 and 29 to 86 remain rejected as obvious.

Claims 1 to 4, 10 to 13, 19 to 22, 28, and 30 to 32 remain rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 3 and 5 of U.S. Patent Application Publication Number 2004/0064719 of U.S. Patent Application Serial No. 10/243,355, hereinafter referred to as the '719 publication.

Applicant notes that an incorrect Application Publication Number is used in the rejection and Applicant has assumed a typographic error in the rejection. Applicant respectfully traverses the obviousness-type doubling patenting rejection of each of Claims 1, 10, 19, and 28. Applicant first notes that no allowable subject matter has been cited in either application and the claims relied upon in the rejection are no longer pending in Serial No. 10/243,355. Therefore, for this reason alone, the rejection is moot because it relies upon subject matter that has been amended in Serial No. 10/243,355.

The following claim chart compares the claims in the instant application and the currently pending claims in Serial No. 10/243,355. Claim 3 in Serial No. 10/243,355 has been cancelled.

| Instant Application | Pending Claims 1 and 5 in Serial No. 10/243,355. |
|---|---|
| 1. A method for digital content access control, comprising: | 1. A method for digital content access control, the method comprising: |

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| receiving, by a content provisioner, a digital content request from a user device, said digital content request comprising a request for digital content; | sending a digital content request comprising a request for digital content to a content provisioner capable of authenticating said request, wherein said digital content request comprises a Universal Resource Locator (URL); |
| creating, by said content provisioner, an authenticated digital content request if a user associated with said digital content request is authorized to access said digital content; | |
| determining, by said content provisioner, one or more delivery parameters, said one or more delivery parameters identifying a target device to receive said digital content; and | |
| sending, by said content provisioner, said authenticated digital content request including said one or more delivery parameters. | receiving an authenticated digital content request in response to said digital content request, wherein said authenticated digital content request comprises a tokenized URL wherein said tokenized URL further comprises a token comprising a cryptogram based at least in part on an identifier that describes the |

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| | |
|---|---|
| | location of said digital content; and |
| | sending said authenticated digital content request to a content repository that provides storage for said digital content. |
| | 5. (Previously Presented) The method of claim 1 wherein said token is from a token pool associated with the location of digital content for which access is authorized. |

The obviousness-type double patenting rejection is without merit because the claims in the two applications are directed at different inventions and so there is no possibility of extension of the term of the right to exclude granted by a patent. For one set of claims to extend the exclusion right beyond the other set of claims, the same acts must infringe both sets of claims. If the same acts do not infringe both sets of claims, there is no extension of exclusion when one of the patents expires.

The MPEP makes it clear that these facts must be considered:

> . . . . Obviousness-type double patenting requires rejection of an application claim when the claimed subject matter is **not patentably distinct** from the subject matter claimed in a commonly owned patent, or a non-commonly owned patent but subject to a joint research agreement as set forth in 35 U.S.C. 103(c)(2) and (3), <u>when the issuance of a second patent would provide unjustified extension of the term of the right to exclude granted by a patent.</u> (Bold emphasis in original. Underline emphasis added.)

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MPEP § 804, 8th Ed., Rev. 5, p. 800-21, (August 2006). Thus, the MPEP defines a predicate for the obviousness-type double patenting rejection as an unjustified extension of the term to exclude others. Such an extension is not found in the instant application, because the inventions in the two sets of claims are directed at different operations and a single set of operations does not infringe both sets of Claims.

Claims 1 and 5 of Application Serial No. 10/243,355 recite sending a digital request, receiving an authenticated digital request, and sending the authenticated digital request. However, it is not just any authenticated digital request, but a specific digital request that includes a tokenized URL. The tokenized URL includes a token from a token pool. In addition the token includes a cryptogram based at least in part on an identifier that describes the location of said digital content. Thus, to infringe these claims requires a tokenized URL, a token, and a cryptogram associated with an identifier of the location of the digital content.

To arrive at Claim 1 in the instant application requires elimination of the token and its recited properties that identify the location of digital content and substitution of delivery parameters for a target device. There has been no rationale provided for such a modification. Moreover, since the delivery parameters in Claim 1 in the instant application are not found in the claims of the other application, the acts necessary to infringe Claim 1 of the instant application include acts that are not necessary to infringe Claims 1 and 5 of Application Serial No. 10/243,355. Therefore, there is no unjustified extension of the patent term and so the obviousness-type double patenting rejection is not well founded.

The rationale for continuing the rejection used an improper form of analysis. In Application Serial No. 10/243,355, Claims 1 and 2 are recited as one invention and Claims 1 and 5 are recited as a different invention. The rationale for continuing the

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invention combines Claims 1, 2 and 5, which is not an invention recited in Application Serial No. 10/243,355. Accordingly, the rationale itself demonstrates that the rejection is not well founded. Applicant respectfully requests reconsideration and withdrawal of the obviousness-type double patenting rejection of each of Claims 1, 10, 19, and 28.

Claims 2 to 4, 11 to 13, 20 to 22 and 30 to 32 distinguish over Claims 1, 3 and 5 of the '719 publication at least for the same reasons as the Claim from which each depends. Applicant respectfully requests reconsideration and withdrawal of the obviousness-type doubling patenting rejection of each of Claims 2 to 4, 11 to 13, 20 to 22 and 30 to 32.

Claims 1, 10, 19, and 28 stand rejected under 35 U.S.C. § 102(e) remain anticipated by U.S. Patent Application Publication No. 2003/0208681, hereinafter referred to as Muntz. Applicant respectfully traverses the anticipation rejection of each of Claims 1, 10, 19, and 28.

The rejection has reduced an explicit claim limitation to a gist and then rejected the gist. Specifically, Claim 1 recites "sending, by said content provisioner, said authenticated digital content request including said one or more delivery parameters." Thus, the claim expressly recites that the authenticated digital content request includes the one or more delivery parameters.

The rejection failed to cite any teaching in Muntz of such a request being sent and instead stated:

> To communicate via network, the metadata server is required to identify the client as recipient of data, otherwise a network connection to transmit data cannot be established.
>
> In addition, per paragraph 32, the client 105 and Metadata server authenticate each other. This explicitly shows that the Metadata server identifies the client 105.
>
> In addition, per paragraph 32, the token includes credentials, such as operation type(s) authorized for the client. The token is generated by the metadata server. If the token identifies the operations allowed by the client,

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it must also identify the client. Note that per parag. 13, client 105 may include computer or computer systems.

Based on the discussion above, Muntz teaches a content provisioner that identifies the target device.

Thus, the explicit claim limitation concerning what is included in the authenticated digital content request has been reduced to simply identifying the target device. This level of analysis fails to comply with the MPEP. The MPEP requires:

> "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. (Emphasis Added.)

MPEP § 2131, 8th Ed., Rev. 5, p. 2100-67 (August 2006)

Claim 1 does not recite simply that the content provisioner identifies the target, but rather that a specific type of request including specific information was sent by the content provisioner. The gist of identifying the target fails to teach the invention to the same level of detail as contained in the claim. Thus, each of Claims 1, 10, 19, and 28 distinguish over Muntz for multiple reasons. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of each of Claims 1, 10, 19, and 28.

Claims 2 to 9, 11 to 18, 20 to 27, and 29 to 86 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Muntz and official notice for each of the claims.

The rationale for the rejection failed to address Applicant's prior remarks. The issue is not whether a URL is known, but rather how a URL would be used in Muntz and still provide the functionality required by Muntz. General knowledge of URLs fails to explain how a block list as defined by Muntz would be included in a URL. Muntz describes the block list as a

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key part of the information transferred. Similarly, the fact that a tokenized URL may be known fails to teach or suggest anything with respect to:

> determining a token pool associated with said digital content;
> determining a token in said token pool; and
> creating a tokenized URL based at least in part on said token

as recited in Claim 2. The rationale for continuing the rejection has failed to demonstrate how knowledge of a tokenized URL teaches or suggests anything concerning a token pool. Again, the gist of the invention and not the explicit claim limitations have been rejected. Also, there has been no explanation of how the modifications to Muntz based on the general knowledge cited would be made and how Muntz would still work. The MPEP puts forth that these are requirements for an obviousness rejection. Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of each of Claims 2, 11, 20 and 30.

Claims 3 and 4 depend from Claim 2. Claims 12 and 13 depend from Claims 11. Claims 21 and 22 depend from Claim 20. Claims 31 and 32 depend from Claim 30. Thus, each of Claims 3, 4, 12, 13, 21, 22, 31, and 32 distinguishes over the combination of references for at least the same reasons as the claims from which it depends. Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of each of Claims 3, 4, 12, 13, 21, 22, 31 and 32.

Claim 5 depends from Claim 1; Claim 14 from Claim 10; Claim 23 from Claim 19; and Claim 29 from Claim 28. Thus, each of Claims 5, 14, 23 and 29 distinguishes over the combination of references for at least the same reasons as the independent claim from which each depends. Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of each of Claims 5, 14, 23 and 29.

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Claims 6 to 9 further define the delivery parameters of Claim 1; Claims 15 to 18, the delivery parameters of Claim 10; and Claims 24 to 27, the delivery parameters of Claim 19. First, Claim 6 is not directed at encryption, but a serial number and so the rejection failed to consider the claim as a whole. Further, as noted above, the rejection has failed to establish how a tokenized URL would work to transfer the information that is required by Muntz. Finally, Muntz taught that the encryption was associated with authentication and not the digital content as in Claims 7 and 8. Thus, the rejection must demonstrate why one of skill in the art would consider the technique taught by Muntz as undesirable and then must show that one would modify Muntz to do something different than what Muntz considered necessary. The rejection has failed to even recognize the differences between Appicant's express claim limitations and the teachings of Muntz taken as a whole. Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of each of Claims 6 to 9, 15 to 18 and 24 to 27.

With respect to Claims 33, 50, 67 and 84, the rationale for continuing ignored the fact, pointed out previously, that Muntz taught only that the authorization information was encrypted and the data was simply delivered. Muntz taught away from any need of encryption for delivery of the data. Therefore, when Muntz is considered as a whole, Muntz considered data encryption unnecessary in view of the secure levels of authentication.

Second, Claim 33 does not recite just any two parameter key generation, but rather specifically defines specific limitations on how the target key and first key are obtained. Reducing the express claim limitations to just any encryption based on two keys is an improper form of analysis. Further, the inputs in the newly cited reference are not two keys as asserted in the rejection, but rather a timestamp Ti and another variable V, a secret 64-bit seed. Therefore, the rejection also misinterpreted the reference and modified the reference based upon Applicants'

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claim language and not any teaching in either reference. Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of each of Claims 33, 50, 67 and 84.

With respect to the rejection of Claim 34, the teaching at page 175 of the newly cited reference directly contradicts the conclusions reached because a time stamp and a secret random seed are taught. Thus, the reference teaches away from the interpretation given in the rejection. Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of Claim 34.

With respect to Claims 41 to 49, when Applicant traverses the use of official notice, it is improper to simply continue to rely upon that notice. Further, the MPEP makes it clear that the question is not whether the individual elements are known, but rather whether the invention as a whole is obvious. The rationale for continuing the rejection demonstrates that yet again an improper standard has been used. There has still been no citation or suggestion of "incrementing a token redemption count" in the context of Claim 41. With respect to Claim 42, no citation or suggestion of "updating the offset entry" has been cited, or of any teaching of a partially redeemed offset or of an unredeemed offset within the token window. Similarly, each of Claims 43 to 45 includes limitations that have not been cited. The comments with respect to Claims 6 to 9 are also applicable to Claims 46 to 49 and are incorporated herein by reference. Thus, the dependent claims distinguish over the combination in addition to reasons given for the independent claims. Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of each of Claims 34 to 49, 51 to 66, 68 to 83, 85 and 86.

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Claims 1 to 86 remain in the application. For the foregoing reasons, Applicant(s) respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

Respectfully submitted,

**CERTIFICATE OF TRANSMISSION**
I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office, Fax No. 571-273-8300, on August 27, 2007.

Amanda Roam

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